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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/721,575	11/24/2003	Rex W. Beasley	44737-Beasley	5801

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EXAMINER

HORTON, YVONNE MICHELE

ART UNIT	PAPER NUMBER
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3635

DATE MAILED: 06/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/721,575

Applicant(s)

REX W. BEASLEY

Examiner

Yvonne M. Horton

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 26-28 and 33-34 is/are allowed.
- 6) ☒ Claim(s) 1, 24, 25, 29, 35, 37 and 40 is/are rejected.
- 7) ☒ Claim(s) 2-23, 30-32, 36 and 38 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 11/24/03.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 5, 29 and 31 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 5, claim one previously indicates that the axis for rotation is disposed off-center relative to the opening formed in the building wall. A later or depending claim cannot further detail another variant thereof. For instance, claim 5 cannot later detail that the axis for rotation is disposed generally "within" a plane of the building wall. It is not clear if the rotation axis is off-center or within the plane.

Clarification is required.

In reference to claim 29, it is not clear what is meant by "the overall fore-aft depth". Clarification is required.

Regarding claim 31, it is not clear if the depth is referring to the components or the module frame. Clarification is requested.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 35 is rejected under 35 U.S.C. 102(b) as being anticipated by US Patent #2,832,425 to GRANEK. GRANEK discloses a movable wall module for installation into an opening formed in a wall (44) of a building wherein the building wall (44) separates first (hatch lined) and second spaces each including a stationary floor (F) disposed respectively at opposite sides of the building wall (44), said movable wall module comprising:

a generally upright module frame (25,40) having generally vertically extending first and second sides; first component means (FC) supported on said first side (hatch lined) of said frame (25,40); second component means (SC) supported on said second side of said frame (25,40); and means (32,38) for movably supporting said frame (25,40) within the building wall opening for movement between a first position with said first and second (FC,SC) component means presented respectively to said first (hatch lined) and second spaces, and a second position with said first and second component means (FC,SC) presented respectively to said second and first spaces (hatch lined), and further wherein the stationary floor area (F) within said first (hatch lined) and second spaces is substantially exposed and unobstructed by said frame (25,40), when said frame (25,40) is in either one of said first (hatch lined) and second positions, see the marked attachment.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 24 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #2,823,425 to GRANEK. GRANEK discloses a movable wall module for installation into an opening formed in a building wall (44), said movable wall module comprising:

a module frame(25,40) having a first side (hatch lined) and a second side; first component means (FC) supported on said first side of said frame (25,40) ; second component means (SC) supported on said second side of said frame (25,40); and means (26,28,30,34,36) for movably supporting said frame(25,40) within the building wall opening for selectively and reversibly presenting said first and second

component means (FC,SC) respectively within rooms or spaces disposed at opposite sides of the building wall (44); and further including castor means (32,38), column 2, lines 31-53, for supplemental rolling support of said second component means (SC) upon movement of said frame (25,40), see the marked attachment.

GRANEK discloses the basic claimed movable wall module except for explicitly indicating that his second component means (SC) is a "work surface". Although GRANEK does not explicitly disclose that his second component means (SC) is a work surface, he does detail that the second side of the frame (25,40) can be a living room or a studio room. It would have been obvious to one having ordinary skill in the art at the time the invention was made that the second component of GRANEK could be a worksurface such as a computer desk, or a simple cocktail table or perhaps a draftsman table. Regarding claim 25, again, due to the fact that the second side of the frame (25,40) is a living room or a studio room, the second component (SC) could be a desk.

Claims 37 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #2,823,425 to GRANEK. GRANEK discloses the basic claimed movable wall module except for explicitly detailing the diametric size of the means for movably supporting the frame and except for explicitly detailing the specific depths of the first and second components. In reference to claim 37, it would have been obvious to one having ordinary skill in the art at the time the invention was made to select the diametric size of the moving means suitable for the use intended as an obvious matter

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of design choice. For example, a larger size and much heavier floor (say for instance concrete) would require a much larger sized bearing in order to facilitate movement thereof without an excessive amount of friction. Whereas, a much smaller and lighter floor would require smaller moving means because the weight thereof is lighter and the size is much smaller. Regarding claim 40, although GRANEK is silent with regards to the depths of the first and second component means, it is very well known in the art that any component has a depth of some dimension. It would have been obvious to one having ordinary skill in the art at the time the invention was made to select a known depth dimension according to the use intended as an obvious matter of design choice. For instance, if the room were small perhaps most of the components included therein would all have the same or a very much similar dimension in order to create more space within the room itself. Whereas, if the room was fairly large, components varying in dimensions could occupy the room in an attempt to have the room appear smaller but still maintain enough maneuverability therein.

Allowable Subject Matter

Claims 1 and 29 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

Claims 2-23 and 30-32 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Claims 26-28 and 33-34 are allowed.

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Claims 36 38 and 39 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yvonne M. Horton whose telephone number is (703) 308-1909. The examiner can normally be reached on 6:30 am - 3:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl D. Friedman can be reached on (703) 308-0839. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


YMH
June 11, 2004

Feb. 18, 1958

A. GRANEK

2,823,425

ROTATABLE SECTIONS FOR BUILDINGS

Filed Dec. 16, 1954

3 Sheets-Sheet 2

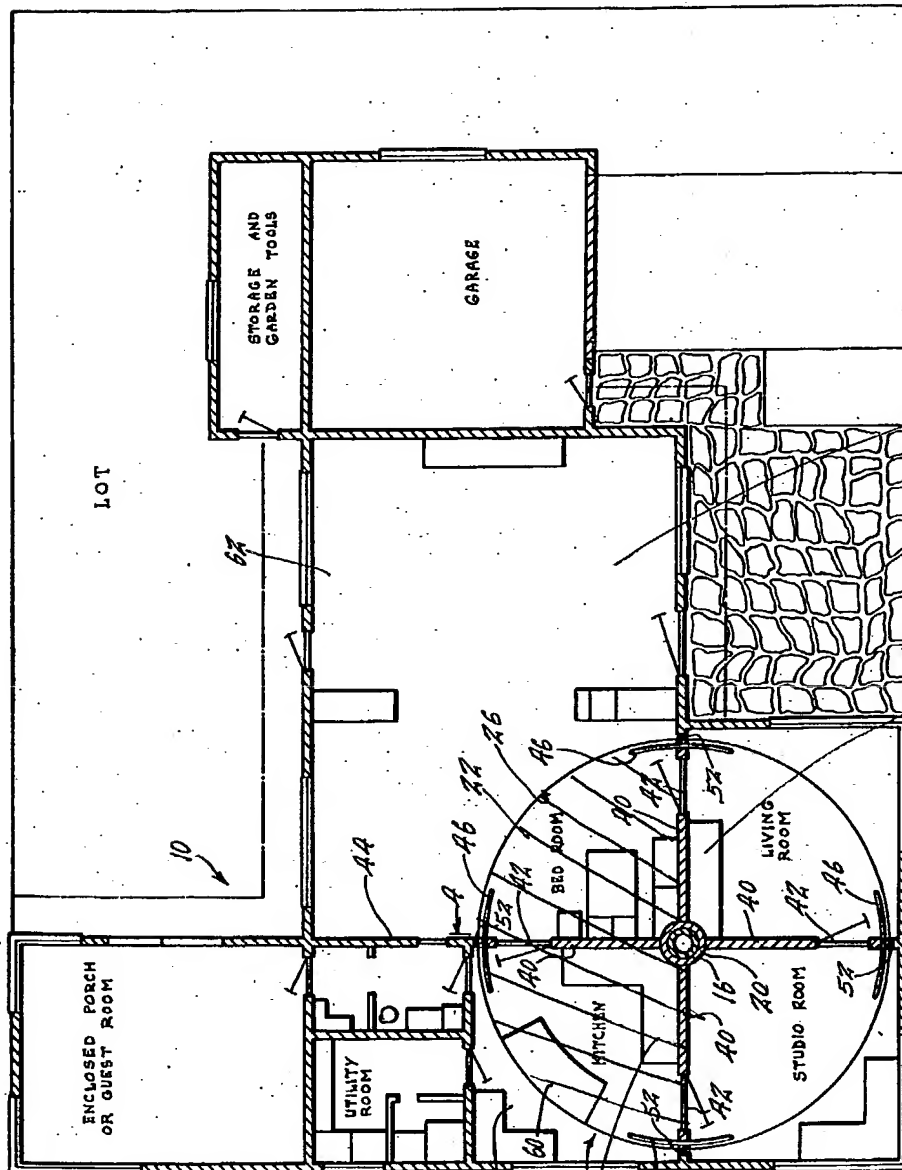


FIG. 3.

INVENTOR

ALFRED GRANEK

BY

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ATTORNEY